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November 20, 2018

MATTHEW COHEN
D. (206) 386-7569
mcohen@stoel.com

Regional Freedom of Information Officer
U.S. Environmental Protection Agency, Region 10
Office of Ecosystems, Tribal and Public Affairs
1200 Sixth Avenue, ETPA-124
Seattle, WA 98101

Dear Sir or Madam:

By letter of July 10, 2018 I submitted a Freedom of Information Act request (copy enclosed) for certain communications related to a proposal to redesignate the Kalispel Reservation as a PSD Class I area. EPA has issued several interim responses to this request, and continues to locate responsive records. This letter updates my July 10 request to cover written communications issued or received by any EPA Region 10 employee or representative between July 11, 2018 and the date of your response to this request. This update request remains subject to the same scope and limitations as my previous request, including the clarifications I provided in an email exchange of August 24, 2018 with Brett Dugan (copy enclosed). My intent is simply to update EPA's production with records issued or received since July 11, 2018.

I am willing to pay copying or other fees up to \$200.00, in addition to the fees assessed by EPA for responding to my July request. If the cost exceeds this amount, please call me at the number listed above before processing my request. Otherwise, please bill me and forward the documents to the address listed on this letterhead. I would be pleased to receive electronic copies of any responsive documents, in lieu of paper copies.

As provided in the Freedom of Information Act, please reply to this request within 20 working days. If any portion of the request is withheld from disclosure, please state the specific exemption under which exemption is claimed and a brief justification for such withholding.

Thank you for your assistance with this request.

Very truly yours,

A handwritten signature in black ink that reads "Matthew Cohen". The signature is fluid and cursive, with the first name "Matthew" and last name "Cohen" clearly distinguishable.

Matthew Cohen

Cc: Brett Dugan, Office of Regional Counsel



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July 10, 2018

MATTHEW COHEN
D. (206) 386-7569
mcohen@stoel.com

Regional Freedom of Information Officer
U.S. Environmental Protection Agency, Region 10
Office of Ecosystems, Tribal and Public Affairs
1200 Sixth Avenue, ETPA-124
Seattle, WA 98101

Dear Sir or Madam:

I am writing, pursuant to the Freedom of Information Act, to request copies of each written communication between any employee or representative of EPA Region 10 and any employee or representative of the Kalispel Tribe and/or the Washington Department of Ecology, relating to redesignation of the Kalispel Reservation as a PSD Class I area. This request includes but is not limited to email, text messages and other electronic communications. The term "representative" includes consultants and lawyers, including attorneys in the Region 10 Office of Regional Counsel. I am not requesting internal EPA documents, unless those documents were shared with the Kalispel Tribe or Ecology.

The temporal scope of this request includes all written communications issued or received by any EPA Region 10 employee or representative between January 1, 2014 and the date of your response.

I am willing to pay copying or other fees up to \$200.00. If the cost exceeds this amount, please call me at the number listed above before processing my request. Otherwise, please bill me and forward the documents to the address listed on this letterhead. I would be pleased to receive electronic copies of any responsive documents, in lieu of paper copies.

As provided in the Freedom of Information Act, please reply to this request within ten working days. If any portion of the request is withheld from disclosure, please state the specific exemption under which exemption is claimed and a brief justification for such withholding.

Thank you for your assistance with this request.

Very truly yours,

A handwritten signature in black ink, appearing to read "Matthew Cohen", is written over a horizontal line.

Matthew Cohen

Cohen, Matthew

From: Cohen, Matthew
Sent: Friday, August 24, 2018 8:07 AM
To: 'Dugan, Brett'
Subject: RE: FOIA Request to EPA 07-10-18.pdf

Yes, and I apologize for the delay in confirming our conversation.

Matthew Cohen

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From: Dugan, Brett [mailto:Dugan.Brett@epa.gov]
Sent: Friday, August 24, 2018 8:05 AM
To: Cohen, Matthew
Subject: RE: FOIA Request to EPA 07-10-18.pdf

Matt,

Thank you for speaking with me this past Wednesday (8/22) regarding FOIA Request EPA-R10-2018-009457. Based on our conversation, I understand that you remain interested in receiving the written comments the Tribe received from the public during the comment period. I also understand that you believe the source background files on air dispersion modeling that the tribe commissioned as part of the technical support document are within the scope of the request, but prefer the EPA to prioritize the production of other responsive records ahead of these documents. Once we produce the other responsive records you will inform the EPA whether you are still interested in the background files. Does this accord with your expectations?

Thank you,

Brett

Brett S. Dugan
Assistant Regional Counsel
Office of Regional Counsel
United States Environmental Protection Agency, Region 10
Mail Stop: ORC-113
P: (206) 553-8562
F: (206) 553-1762
Dugan.Brett@epa.gov

From: Dugan, Brett
Sent: Wednesday, August 22, 2018 2:18 PM

To: 'Cohen, Matthew' <matthew.cohen@stoel.com>

Subject: RE: FOIA Request to EPA 07-10-18.pdf

Dear Matt,

I am following up on a voice message today regarding this request (EPA-R10-2018-009457) . We hope to issue an interim release for this request within the next few days. Our search has uncovered two categories of records that I wanted to confirm are within the scope of your request. First, we received as part of the Kalispel Tribe's proposal background files on air dispersion modeling that the tribe commissioned as part of the technical support document. These files are in electronic format. Do you want EPA to provide these files to you? Second, the Tribe provided to EPA as part of the request written comments received from the public during the Tribe's public comment period. Do you want EPA to provide these records to you?

Thank you for your patience as we process your request. Please feel free to call or email me to discuss these questions.

Sincerely,

Brett

Brett S. Dugan
Assistant Regional Counsel
Office of Regional Counsel
United States Environmental Protection Agency, Region 10
Mail Stop: ORC-113
P: (206) 553-8562
F: (206) 553-1762
Dugan.Brett@epa.gov

From: Dugan, Brett

Sent: Thursday, July 12, 2018 6:46 AM

To: 'Cohen, Matthew' <matthew.cohen@stoel.com>; Matthews, Julie <Matthews.Juliane@epa.gov>

Subject: RE: FOIA Request to EPA 07-10-18.pdf

Dear Matt,

Thank you for the courtesy notice of this request. I have forwarded the request to our FOIA office for processing.

Your request states: "The temporal scope of this request includes all written communications issued or received by any Region 10 employee or representative between January 1, 2014 and the date of your response." I assume you mean the date of EPA's response to your request for records. Please note that per 40 C.F.R. 2.103, in determining the scope of the request, EPA includes only those records in its possession as of the date the request is received.

Your request states: "As provided in the Freedom of Information Act, please reply to this request within ten working days." I do not read FOIA nor EPA's implementing regulations to require the EPA to respond within ten working days. Per 5 U.S.C. Sec. 552(a)(6)(A)(i) and 40 C.F.R. 2.104, the Agency is required to respond